

Election/Restriction

In accordance with the election requirement, Applicant provisionally elects, with traverse, Group I, Species a (Figures 1-5)

In accordance with the Examiner's request, Applicant respectfully submits that claims 1-27 and 38-54, 58-62, 64, 67-73, 76-81, and 83-86 read on the elected Group and Species.

REMARKS

The Examiner stated that the Application contains claims directed towards the following patentably distinct Inventions: Group I, claims 1-27 and 38-86; and Group II, claims 28-37. The Examiner further stated that Applicant is required under 35 U.S.C. 121 to elected a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner identified the following patentable distinct species: Species a (Figure 1-5), Species b (Figures 6-8), Species c (Figures 9-15), and Species d (Figure 16).

Accordingly, Applicant has provisionally elected Group I, species a, with traverse. Further, Applicant has provided a list of all claims readable thereon.

Applicant traverses the election of the species requirement, as the requirement is improper. Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)). MPEP § 803. If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. (Id.).

The Examiner has not demonstrated that the Application cannot be examined without a serious burden. Applicant submits that the search and examination can and has been made without a serious burden. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the election of Group and Species requirement.


In light of the foregoing remarks, this application is now in condition for an examination

Applicant(s): Olaf Muller.
Application No.: 10/771,846
Examiner: E. Culbreth

on the merits, and early action is respectfully requested. If any questions remain regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

No fee is believed to be due. However, please charge required fees (or credit any overpayments of fees) to the Deposit Account of the undersigned, Account No. 500601 (Docket no. 7100-X04-025).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Paul D. Bianco', with a large, stylized initial 'P' and 'B'.

Martin Fleit, Reg. # 16,900

By: Paul D. Bianco, Reg # 43,500

Customer Number: 27,317
Paul D. Bianco
FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO
21355 East Dixie Highway, Suite 115
Miami, Florida 33180
Tel: 305-830-2600; Fax: 305-830-2605
e-mail: mfeit@focusonip.com